

## **JOBS CREATION COMMITTEE**

Thursday, July 21, 2016  
at 9:00 AM

Government Center South,  
402 W. Washington St., Room W064  
Indianapolis, IN 46204

### **I. CALL TO ORDER & ESTABLISHMENT OF QUORUM**

Chair Frye called the Jobs Creation Committee to order at 9:05 a.m.

She began by introducing the Committee's newest member, Ben French. Ben lives in the Newcastle/Muncie area and is a Focal Point business coach and semi-retired. He owned his own promotional marketing company. He has three children and six grandchildren. After the introduction, Chair Frye established a quorum with 7 voting members present pursuant to IC 25-1-16-7.

#### **Members Present:**

Joseph Habig  
Colonel Wilson  
John Wright  
Allen Pope  
Barbara Quandt-Underwood  
Lori Duncan  
Ben French  
Debbie Frye

#### **IPLA Staff Members Present:**

Trent Fox  
Kristin Schwartz

### **II. REVIEW & ADOPTION OF AGENDA & JUNE 16<sup>th</sup> MEETING MINUTES**

Chair Frye asked everyone to review the June 16<sup>th</sup> minutes, which were provided prior to the meeting. Seeing no corrections, Chair Frye asked for a motion. Ms. Underwood moved to adopt the day's agenda and the June 16<sup>th</sup> meeting minutes. Mr. Habig seconded, and the motion passed unanimously.

### **III. COMMITTEE DISCUSSION**

Chair Frye noted that the Committee needed to plan for the boards to be reviewed in the 2016-2017 year. She proposed that nine boards needed to be reviewed, and that it would be beneficial to schedule meeting dates to ensure Committee members would be available. The proposal was as follows:

**August** – Indiana Optometry Board & Board of Podiatric Medicine  
**September** – Behavior Health and Human Services & Indiana State Psychology Board  
**October** – State Board of Nursing & Indiana Athletic Trainers Board  
**November** – Occupational Therapy Committee & Physical Therapy Committee  
**May** – Cosmetology/Barbers

**June** (2 meetings) – Review boards/make recommendations

The Committee agreed that this will be the calendar. The third Thursday of the month was agreed upon as the meeting day, and all agreed that the Committee would not meet during the Legislative session, as multiple members had conflicts.

Chair Frye then said that during the June 16<sup>th</sup> meeting, the Committee discussed preliminary recommendations concerning various professions considered in the past year. As stated last month, the Committee will hear during today's meeting the final remarks from stakeholders and make final recommendations regarding the professions. The Committee has heard public input pursuant to IC 25-1-16-14. Chair Frye reminded the Committee and the audience that the JCC's recommendations are suggestions to the General Assembly and have no binding authority. Chair Frye also informed the Committee and members of the public that due to the large number of recommendations that will be considered by the committee, and to allow everyone a fair opportunity to speak, testimony on each recommendation would be limited to 15 minutes.

#### **IV. FINAL COMMITTEE RECOMMENDATIONS**

##### **A. Recommendations for all applicable occupational licenses under the Indiana Professional Licensing Agency (IPLA)**

Chair Frye said the first recommendation is an administrative recommendation concerning audiovisual equipment in this room, W064, which all of IPLA's boards use. At the last meeting, the Committee did not make a recommendation regarding this, but several board members, staff members, stakeholders and members of the public have commented on the need for the technological upgrade. Sometimes it is very hard to hear the testimony, and it would also be useful to have video streaming for those who cannot attend in person, in particular the students who are required to participate as part of their educational experience. It is PLA's desire to be able to stream the meetings live and make them available. Chair Frye noted that PLA would like to provide that update. Chair Frye asked for public input. Seeing none, she made a motion: "I move to recommend that the agency install audio/visual equipment to make board proceedings more transparent and educational for the public."

Lori Duncan seconded the motion.

Chair Frye noted that PLA staff would be calling the role for all votes during the meeting.

Mr. Habig abstained, saying he would probably be involved in the procurement of the audio/visual equipment.

Mr. Wright voted yes.

Ms. Underwood voted yes.

Ms. Duncan voted yes.

Mr. French voted yes.

Col. Wilson voted yes.

Chair Frye voted yes.

The motion passed 6-1-0

Chair Frye noted that the agency had been in discussion with the Secretary of State's office about moving Professional Corporation oversight to that office, instead of having both the Secretary of State and PLA do the same paperwork twice. She asked if there was anyone present to speak on the subject.

David Maxwell from the Secretary of State's office said that the office was in support of eliminating PLA's Professional Corporation certificate. He said as long as the statute was changed to reflect that PLA is not required to issue it, the Secretary of State's office would not require the certificate in their filings.

Chair Frye said that PLA issuing the certificate has created a duplication of services, and an additional cost to businesses, since they have to pay the PLA and the Secretary of State for the same service. She noted that eliminating PLA's certificate would reduce the burden on business owners. She asked whether there was further discussion on the matter. Seeing none, Chair Frye made a motion: "I move that the committee recommends the elimination of the certificate of registration statutory requirement from PLA's purview for professional corporations, and consolidate the authority for all applications and renewals for professional corporations managed by licensed practitioners to be solely administered by the Secretary of State's Office."

Mr. Habig seconded the motion.

Mr. Habig voted yes.

Mr. Wright voted yes.

Ms. Underwood voted yes.

Ms. Duncan voted yes.

Mr. French voted yes.

Col. Wilson voted yes.

Chair Frye voted yes.

The motion passed 7-0.

Chair Frye noted that another administrative recommendation concerned the Valid to Practice While Reviewed license status. The Committee heard testimony from the medical community about the harm that was caused with regard to insurance premiums with the valid to practice designation. She asked for comment from the audience. Seeing none, she made a motion: "I move that the committee recommends the board's renewal of a license and the simultaneous filing of an administrative complaint with the Attorney General's Office does not estop the board from imposing sanctions on that licensee as a result of an administrative complaint filed by the attorney general subsequent to renewal."

Ms. Underwood seconded the motion.

Mr. Habig voted yes.

Mr. Wright voted yes.

Ms. Underwood voted yes.

Ms. Duncan voted yes.

Mr. French voted yes.

Chair Frye voted yes.

Col. Wilson voted yes.

The motion passed 7-0.

Chair Frye then said that another administrative recommendation was to eliminate the geographic restrictions for board member appointments for all the PLA boards and commissions.

Mr. Habig clarified that this recommendation was for all boards, not just for the veterinary board, who made the original suggestion.

Chair Frye said that not all boards have geographical restrictions, but a number do. The appointments are sometimes tied to congressional districts. PLA would like to see the restrictions lifted, but also make sure the appointing authority is still mindful of making sure all areas of the state are represented. The current

restriction can create a hardship to find enough people willing to serve on the boards. Removing the restriction would provide a wider pool of potential appointees.

Col. Wilson noted that it is also important to have diversity of experience, and felt that diversity of experience might be more important than diversity of location.

Chair Frye made a motion: "I move that the committee recommends removing geographic restrictions relating to board member appointments, however recognizing that the appointing authority shall consider achieving equal geographic representation of its appointees."

Col. Wilson seconded the motion.

Mr. Habig voted yes.

Mr. Wright voted yes.

Ms. Underwood voted yes.

Ms. Duncan voted yes.

Mr. French voted yes.

Chair Frye voted yes.

Col. Wilson voted yes.

The motion passed 7-0.

Chair Frye noted that there was one last administrative change to present concerning landscape architects. The Committee's preliminary recommendation was to keep licensure for architects and landscape architects. She would like to present to the committee that they administratively make a change to the fee charged for this profession. There was a disparity between whether or not a landscape architect or architect had maintained membership in the state or national organization. PLA would like to present to the Committee reducing that fee for nonmembers. There is a \$300 increase for non-members versus members to get a license. She would like to ask the committee to reduce that fee and make it equal at \$200 for both members and non-members.

Ms. Underwood asked if the profession had an opportunity to look at that proposal.

Ms. Frye said the fee schedules for all of the licenses had been discussed, but couldn't speak to whether there was direct testimony on the proposal. PLA would like to make this change administratively.

Jason Shelley, Executive Director for the Indiana chapter of the American Institute of Architects, stood to speak. He said this was the first they had heard of this proposal, so they had not had the opportunity to consider it. He would appreciate the opportunity to go back to members and consider this.

Chair Frye noted that these are fees that the agency collects. The proposal simply has to do with the fee and reducing the burden to licensees.

Mr. Shelley said he understood and may find that the members are in support, but he would appreciate the opportunity to speak to them.

Mr. Pope asked who would make the decision to reduce the fee.

Chair Frye said that all recommendations would be sent to the Legislature, but the individual boards are responsible for setting fees.

Col. Wilson clarified that it wouldn't require legislative action.

Mr. Habig asked whether the fee was going from \$300 to \$200.

Chair Frye clarified that it would go from \$500 to \$200. The difference was decided by whether the applicant was a member of the professional association.

David Gordon from the American Society of Landscape Architects stood up. He said he was a former member of CLARB. He said at one time if someone was registered as part of CLARB, it made the registration process for PLA staff easier, so that was why there was a difference in fees. If they were not a member of CLARB there was more paperwork involved. It was an incentive to encourage people to be part of the organization.

Col. Wilson asked whether PLA was now an agent of the state incentivizing membership of a private organization.

Mr. Gordon said Indiana's registration board is a member of CLARB. If the board pays a fee to be a member, and individuals pay a fee to have their information stockpiled by CLARB. It is an individual decision, but if someone applies for licensure in a number of states, it is a convenience.

Col. Wilson said it was not something the state should be forcing on people or making them pay a higher fee for not participating in.

Mr. Gordon said it was an incentive because it was easier for the registration board to register people. He noted that he was aware of the recommendation before-hand, and speaking on behalf of the society, they did not have an opinion either way.

Col. Wilson asked whether the registration was \$300 more work for the agency without the CLARB membership.

Chair Frye said she did not think the agency could justify the greater charge.

Ms. Underwood asked whether other states had the same fee structure.

Chair Frye said that surrounding states do not charge a different fee for the distinction. The committee made a final recommendation on the state's continued regulation of landscape architects last August. However, pursuant to IC 25-1-16-8(a)(6), the committee may recommend administrative changes as well, specifically regarding fees required by the board. This motion, if we make it, addresses that statutory requirement issued to the committee. The agency is asking the committee to look at whether we want to reduce the fee.

Ms. Underwood's concern was that the community was not able to talk to their members. But she clarified that landscape architects were aware of the change.

Mr. Gordon said they were aware and had no feeling either way. He noted that it probably would affect out of state licenses the most.

Chair Frye asked if there were other questions.

Col. Wilson said he made a motion that the Committee make a recommendation to make administrative changes. He asked if Chair Frye would restate the motion more clearly.

Chair Frye made a motion: "I move that the committee recommends the fee required for a reciprocity license from an architect or landscape architect applicant that is not a member of the Council of Landscape Architectural Registration Boards (CLARB) or the National Council of Architectural Registration Boards (NCARB) be equal to the fee required for an applicant who is members of CLARB or NCARB, which is set at \$200."

Col. Wilson seconded the motion.

Mr. Habig voted yes.

Mr. Wright voted yes.

Ms. Underwood voted no, saying she was concerned about the regulated community not having time to review the recommendation, and that she wanted the committee to be as transparent as possible. She clarified that this recommendation was not to the Legislature.

Chair Frye said it was a recommendation to the board.

Ms. Duncan voted yes.

Mr. French voted yes.

Chair Frye voted yes.

Col. Wilson voted yes.

The motion passed 6-1.

## **B. Medical Licensing Board**

Chair Frye presented reminded the Committee of the preliminary recommendations for the Medical Licensing Board. They were to remove the permit type in IC 25-22.5-5-4(d); and change the name of the fellowship permit.

She asked if there was anyone from the public present wishing to testify on the recommendation or any questions from the Committee. Seeing none, she made a motion: "I move that the committee recommends the temporary medical permit language of IC 25-22.5-5-4(d) be removed from the Indiana Code because it is no longer applicable."

Mr. Habig seconded the motion.

Mr. Habig voted yes.

Mr. Wright voted yes.

Ms. Underwood voted yes.

Ms. Duncan voted yes.

Mr. French voted yes.

Chair Frye voted yes.

Col. Wilson voted yes.

The motion passed 7-0.

Chair Frye brought up the second issue, having to do with fellowship permits and the confusion created by the difference between the temporary fellowship permit and the fellowship permit. She made a motion: "I move that the committee recommends changing the name of the "temporary fellowship permit" in IC 25-22.5-5-4.6 to "Non-ECFMG (Educational Commission for Foreign Medical Graduates) Certified Graduate Permit", and adding "osteopathic physician" to its definition." She noted that it was technical and the Committee could read through the statute, but they heard from the medical board director that they should clean up the statute.

Col. Wilson seconded the motion.

Mr. Habig voted yes.

Mr. Wright voted yes.

Ms. Underwood voted yes.

Ms. Duncan voted yes.

Mr. French voted yes.

Chair Frye voted yes.

Col. Wilson voted yes.

The motion passed 7-0.

### C. Private Investigator & Security Guard Licensing Board

Chair Frye said that Private Investigator Firms and Security Guard Agencies had been tabled during last year's JCC meetings. She asked if anyone from the public wished to testify on the recommendation.

Brandy Lord, owner of Integrity Investigations presented to the Committee. She has been in the PI business for 17 years and owned company for 12 years. George Gergis also presented to the Committee. He has been practicing in Indiana since 2002, a professional since 1990, and is licensed in Florida, Indiana, Illinois and Wisconsin. He is a member of multiple national professional investigation associations. He is an insurance fraud investigator and defense investigator. Kim Ridding also presented to the Committee. She has been in business since 2011 and is president of the Indiana Association of Professional Investigators. Don Johnson also presented to the Committee. He is chairman of the PISG licensing board, but said he was present in his capacity as a small business owner. He is also the national director of National Association of Legal Investigators. He wants the committee to consider enhancing standards. HE said Indiana codes are weak as far as protecting the public are concerned.

Chair Frye asked if anyone would summarize the testimony that was before the Committee originally concerning PISG. Ms. Lord provided a letter to the Committee that was originally provided by the NCISS.

Ms. Ridding asked whether there were specific concerns the Committee would like to have addressed since the matter was tabled.

Chair Frye noted that there were three new members on the committee who did not hear the original testimony, and she was not the chair at the time. She said the committee did not have the testimony before them since it was in last year's JCC report.

Ms. Ridding read the executive summary from the provided report as a recap of the original testimony:

*"The associations believe that the licensing of private investigators (PI) and security guard (SG) companies is necessary to protect the public from unscrupulous, predatory and unqualified operators and to provide a necessary level of quality assurance to business owners and the public at large.*

*We see no economic value to the state or to the public in the deregulation of the PI and SG sectors, and in fact we believe it could lead to negative consequences in a substantial increase in consumer frauds and additional burdens on our law enforcement communities. Our present codes require only that one individual be eligible for licensing for each business, and those eligibility standards are minimal and the licensing fee insignificant as a part of start-up costs (\$75 per year).*

*We routinely handle sensitive business and personal matters for our clients, which require the use and protection of confidential and proprietary information and the safeguarding of valuable client assets and personnel. In the absence of licensing, any individual could present himself to the public at large as a "private investigator" and make outrageous claims as to what they could do. In the absence of licensing the public would be in constant danger of exploitation by fraudsters, sexual predators and scam artists. Most guard company owners have a law enforcement background and are skilled in the protection of personnel and assets. Without licensing and regulation, individuals without any experience or training could offer guard services, placing the public and business owners in danger.*

*Although the associations believe that our codes could be enhanced to provide great assurances to the public and the business communities, we equally believe that our minimum licensing standards must be maintained in the interest of public safety."*

Ms. Lord noted that there is a consumer safety assurance to clients for private investigators to have a license and a background check. She said there was outrage last year when the profession was under review. From what Kim read, if there is no licensing, anyone who wanted to perform investigative services would be able to do that. PIs deal with a lot of sensitive and private information and attorneys entrust them with their clients' information as well.

Mr. Johnson said there was some confusion back to 2011 about this Committee being convened to see how many licenses it could get rid of, and the PISG ranks have had backlash. He said he explained that it is part of Indiana law to review all boards and commissions periodically. He said the PISG community has people representing them for continued licensure and consumer assurance and public safety. He noted that most private investigators are small business owners. He is also a small business owner and not in favor of government overreach, but he is concerned about the public safety factor involved in this instance.

Col. Wilson said his concern was not with licensing the profession, but with licensing the firm as opposed to the individual. He was concerned since the individuals were carrying firearms. Ms. Ridding said they do not necessarily carry a fire arm, and that was a separate issue from licensing. Col. Wilson asked why not license the individual regardless? He said other states licensing individuals, such as Kentucky and Michigan. Mr. Johnson explained that he as the company owner carried the license, and his employed investigators work under his license.

Col. Wilson asked why the individuals do not have their own licenses. Mr. Johnson said they would have to provide their own insurance and business expenses that way. It does not make sense to license everyone if they are all working for someone with a license.

Col. Wilson said he was suggesting eliminating the license as it stands for a firm and licensing individuals instead. Mr. Johnson said the individual is licensed through the qualifier. He said they used to license individuals, but the General Assembly got rid of that in 2007.

Chair Frye said at one time every individual (even at a sporting venue) would have to come to the agency and get a license to be a security guard for a one-time event. It was untenable administratively to continue that policy. The responsibility was transferred to the firm to monitor the employees.

Col. Wilson was concerned about the firms doing investigative work. He thought the individuals should be licensed if they were carrying firearms.

Mr. Johnson said his employees do not carry firearms because he would be responsible for whatever they did. He said qualifiers were responsible for the employees. They maintain fingerprint cards and they can be audited by the state at any time.

Ms. Underwood asked if the state had any complaints about private investigators working without a license if they were working under someone with a license?

Mr. Pope responded that the Attorney General's office presented the PISG cases to the board. He could not say that there had been a noticeable statistical problem with people who were employees versus those carrying the license for the business.

Ms. Underwood asked whether the employer would lose his license if his employee did something wrong. Mr. Pope said it was a possibility since those acts would be a violation of the owner's/employer's license.

Chair Frye noted that there had been an increase over the past year of police impersonators, and the board had heard some of those cases.



Mr. Johnson confirmed that the board had heard a number of those cases where people were dressing like police, and other people employing guards without a license. He said most of the cases before the board involve unlicensed operators.

Ms. Duncan asked what happened as far as discipline—were they free to go to another PI firm? How was the individual investigator held responsible?

Mr. Johnson said each case writes its own script. He said theoretically if he fired an employee he could go to another PI firm, but it is the responsibility of the employer to check references and do a background check.

Mr. Gergis addressed Col. Wilson, saying they do want the license to be strong. He said a lot of the national firms send people here who cannot work in other states but they can work in Indiana. Some states have categorization of license types under PI. There is also often an experience requirement. The agency license is much higher than the intern license. The category licenses may be something for Indiana to consider. As far as the financial burden, there are some who spend thousands of dollars being licensed in other states. He said this might be something where the Committee considers raising the fees and changing classifications to make a stable licensing board. He emphasized that there should be a move toward more regulation of the profession rather than less.

Chair Frye noted that only seven states do not license private investigators, and fourteen do not license security guards, so a majority of states license both.

Ms. Ridding said the numbers were even lower now. Some states have only some counties, such as Alaska.

Mike Mackie addressed the committee. He has been in the industry since 1975 and owns his own agency. He said one thing happening now is the proliferation of all the information on the internet. Many people think they are investigators because they have access to public domain. Licensees know the difference between what the public gets and what they have access to, and attorneys want to have access to licensed individuals. Licensees can work under an attorney's license, and they want to hire someone who is an employee of a licensed firm. He said he has never advocated himself as a private investigator. It is a typecast and archaic word. He portrays himself as a licensed investigator. Thus, the need for the license. He was licensed as an individual before they changed it. He said they need to be regulated one way or the other.

Col. Wilson asked how they felt about a certification program for individuals. He suggested having some kind of testing or educational requirement or hurdle that the individual jumps over. This would keep the licensing as is, and then have some requirement to make sure the individual employees meet a minimum standard.

Mr. Johnson said he thought that was what Mr. Gergis was referring to.

Ms. Lord said they were all for enhancing the codes. She said they respect the license. Some people are doing this on their own without employees, and the rest are handpicking their employees. She said she does not let just anyone work for her agency, and she has a fifteen-page confidentiality non-compete agreement that they sign. She has never terminated anyone, and she is very cautious with the individuals she chooses. Qualifiers can be trusted, but she said strengthening the code and including continuing education would be useful.

Mr. Pope asked if the non-compete agreement was typical to the industry. Ms. Lord said probably not, but it was what she was used to. Mr. Johnson said he was opposed to non-compete agreements. He had never had anyone leave him and try to get a license. Ms. Lord clarified that her main concern was confidentiality. She wanted to make sure anyone leaving her firm would not share client information. Mr. Pope said he asked since sometimes non-compete clauses can reduce individual bargaining power. Mr. Johnson said they were

not common, though confidentiality agreements were a different thing than non-compete agreements. Mr. Wright asked if PLA had always been the licensing authority, or if it had been the State Police in the past.

Mr. Johnson said PLA was formed in 1989. He got his license before the regulations were written. The State Police used to oversee PIs and Guards. I think it was quite an administrative burden for the police to oversee the licensing since they are underfunded and understaffed.

Chair Frye asked if there were any other questions or committee discussion. She made a motion: "I move that the committee recommends keeping both license types – private investigator firms and security guard agencies."

Mr. Wright seconded the motion

Mr. Habig voted yes.

Mr. Wright voted yes.

Ms. Duncan voted yes

Ms. Underwood voted yes.

Mr. French voted yes.

Chair Frye voted yes.

Col. Wilson voted yes.

The motion passed 7-0.

#### **D. Home Inspectors Licensing Board**

Chair Frye invited anyone from the audience to speak on behalf of the Home Inspectors Licensing Board. She inserted that the preliminary recommendation was elimination of the board and all license types, which includes licensed home inspectors, CE providers, pre-course providers, and home inspector instructors.

Phil Thornberry, member of the Home Inspectors Licensing Board and liaison to the Attorney General's Office, addressed the Committee. He said that PLA began licensing home inspectors in 2005. He was not initially convinced it was necessary. But he would still want to have the system in place because the board approves licenses. Sometimes they are able to just go through the system, but when there is a positive response to a question about criminal background, those applications get reviewed more closely and the board interviews the applicants. Some of the convictions are pretty serious. He noted that the requirements for education were fairly light. If the board were eliminated, any person who remodeled a house could say they were a home inspector, and that is scary to think about. He noted that home inspectors go into the homes of sellers, and the buyer hires them. They go into the homes alone, sometimes with children there. Without any level of previous check, that would be concerning.

Mr. Thornberry noted that home inspections are the standard. Without the license, there would be a percentage of non-confident home inspectors out there. He would not like to see the profession become a joke without the license. He also said that having the board gives consumers an avenue for complaints with the Attorney General's Office. In 2015, 20 complaints were filed. He said he does not believe the barrier to entry is too high, and the fees have already been reduced. But he said to take the pre-checks out of the equation would not do the consumer any good. He noted that although he had been on the fence about licensing in the beginning, he now believes in licensing.

Col. Wilson said that since the preliminary recommendation to deregulated home inspectors was mostly his idea, he explained that his heartburn from the beginning was that the Home Inspectors were charging

almost \$500 to get in the game. He felt that was an unfair sum that was too great a barrier to entry. He said he had much less heartburn about licensing now, since the fee had been reduced. He said he would support reversing the initial recommendation.

Chair Frye made a motion: "I move that the committee recommends to reverse its preliminary recommendation of eliminating the Home Inspector Licensing Board and all of its licenses, instead recommending that the Home Inspector Licensing Board continue to regulate these practitioners and administer its licenses."

Ms. Duncan seconded the motion.

Mr. Habig voted yes.

Mr. Wright voted no.

Ms. Underwood voted yes.

Ms. Duncan voted yes.

Mr. French voted yes.

Chair Frye voted yes.

Col. Wilson voted yes.

The motion passed 6-1.

Chair Frye asked Mr. Thornberry about his thoughts on continuing education, especially the 32 hour requirement. Mr. Thornberry said he didn't know the national average. Chair Frye noted the requirements for the surrounding states:

Illinois – 6hrs/year; 12hrs/renewal cycle

Kentucky – 14hrs/year; 24hrs/renewal cycle

Michigan – No licensure

Ohio – No licensure

She asked whether the committee wanted to look at whether the 32 hour requirement was a burden to the licensees.

Ms. Underwood said it did seem high.

Col. Wilson asked what the 32 hours involved and what the cost was.

Mr. Thornberry responded that there were two categories of courses. Category 1 included primary issues such as heating and electricity and plumbing. Category 2 included topics such as radon. The cost is the same as the level of difficulty, and there are different numbers of hours required for the two categories. He noted that some associations offer the courses for free, and online courses are available. He said he had never added up the cost, but he did not believe it was too much. However, he noted that it takes time and money, and it often could get squeezed tight before the deadline.

Col. Wilson asked whether cutting the requirement in half would be acceptable. He said his research indicates that the surrounding states have about 12-24 hours required, and Indiana requires 32. He believes it would make sense to put the requirement at 16.

Mr. Thornberry said he would personally welcome the change, since home inspectors have to take other types of CE as well for other professional requirements.

Mr. Habig confirmed that the Committee wanted to make a recommendation rather than just take the idea under consideration. Col. Wilson confirmed this.

Chair Frye made a motion: "I move that the committee recommends reducing the continuing education requirements to 16 hours per renewal cycle."

Col. Wilson seconded the motion.

M. Habig voted yes.

Mr. Wright voted yes.

Ms. Underwood voted yes.

Ms. Duncan voted yes.

Mr. French voted yes.

Col. Wilson voted yes.

The motion passed 7-0.

Mr. Wright asked whether the vote to retain the license retained the other associated licenses as well. Chair Frye confirmed that it retained all of them.

Chair Frye asked the Committee to take a ten minute break before resuming.

### **E. State Board of Funeral & Cemetery Service**

Chair Frye explained that the preliminary recommendation for the State Board of Funeral & Cemetery Service was to keep the funeral director, crematorium, cemetery and funeral director courtesy card licenses, and to eliminate the funeral director intern, funeral home, certificate of authority, funeral branch and CE provider licenses. She asked if there was any one present who wished to testify on the recommendations.

Curtis Rostad, Executive Director of the Indiana Funeral Directors Association presented to the committee. He noted that there were three board members and the chairman from the funeral board present to assist if necessary. He presented the Committee with a memo and outlined it in his presentation. He noted first that the association had no problem with the funeral intern license becoming a registration. He said it was a learner's permit, and the term license actually could be misunderstood since the intern has to work under a licensed funeral director. He said the association still feels it is important that the interns be registered so the board can take note of what the interns have to meet before becoming an Funeral Director.

He addressed the Funeral Branch and Funeral Home together. He said they need to be licensed because the Funeral Home is where the regulation takes place. The firm has to be licensed because they are the ones who make the transaction. Just as important, is the matter of public health. Embalming takes place at the home but not the branch. Embalming should only take place in a licensed facility. The location is just as important as the person performing the embalming.

He said that Certificate of Authority is a strange way to say license. He explained that it is a license to accept pre-need funds. This is payment for services before they are needed. These dollars must be deposited into a trust fund, and the license gives state the right to inspect records and make sure everything is done properly. There have been problems in these areas, and the state has caught people because they have license to inspect. There has also been fraudulent failure of an insurance company that involved millions of dollars in multiple states. Through state regulation, this was discovered and some of the funds were recovered and the perpetrators sent to prison. He also said that eliminating these licenses would not create any new jobs.

Col. Wilson said that he shared this concern originally. While he understands what Mr. Rostad is talking about regarding licensing the funeral home, he is struggling with the necessity to license each of the five branches of a group. Why not have one license that regulates the facility and then the sub branches do not need one if they are overseen by the same entity?

Mr. Rostad said it gives the state a license to inspect. How they are registered with the state determines whether they can do embalming and whether the state can go in and inspect.

Col. Wilson asked why that was not just made part of the license. He said the license could be amended to say there were branches in other locations, and then the state would know what facilities are out there and what they're doing. He compared it to a real estate firm that has licenses all over.

Mr. Rostad pointed out that there is nothing happening in a real estate office that needs to be inspected. He noted that if PLA just license one entity and listed all the others, that just gets rid of revenue for the state to inspect them. If the fee was eliminated, the association probably wouldn't object, but then the PLA compliance budget would be less.

Chair Frye confirmed that PLA uses the license funds to fund the compliance budget.

Mr. Habig asked the difference between the funeral home and the branch home.

Mr. Rostad answered that the funeral home has embalming, and the branch does not. He said the branch can still be inspected, but the embalming is the distinguishing factor. Mr. Habig asked what the state's interest was in the branch that it would be inspected. Mr. Rostad answered that the license must be displayed to let people know it is a legitimate facility, and it is important to make sure no embalming is being done in a branch facility.

Chair Frye noted that there have been instances of branch facilities conducting embalming that have been identified through inspection. She also mentioned the pre-need locations.

Mr. Rostad added that he may sell pre-need through either location, but the state wants to know where the actual contract is located.

Col. Wilson asked how much of funerals were self-funded versus through annuities or insurance policies.

Mr. Rostad answered that slightly over half are done with cash deposits in a trust fund. Just under half are done with special policies through pre-need insurance policies.

Col. Wilson asked whether those are those regulated by the insurance commissioner

Mr. Rostad answered that they were.

Mr. Pope said to clarify, one of the problems that the Attorney General's Office had complaints about is that funeral home employees will take in the money for pre-need but then they do not make the deposit or get the policy, they just spend it.

Mr. Rostad added that is the purpose of the certificate of authority, to be able to confirm everything.

There were no other questions, so Chair Frye made a motion: "I move that the committee recommends reversing the preliminary recommendations concerning the elimination for the following license types: funeral home, funeral branch, CE provider and certificate of authority."

Mr. Habig seconded the motion

Mr. Habig voted yes.

Mr. Wright asked whether CE provider was in this vote.

Col. Wilson said CE provider should perhaps not be included in this vote. He recommended killing the motion and making a new motion.

Mr. Wright voted no.  
Ms. Underwood voted no.  
Ms. Duncan voted no.  
Mr. French voted no.  
Chair Frye voted no.  
Col Wilson voted no.  
The motion failed 1-6.

Chair Frye asked whether it was the will of the committee to look at each license separately or just do CE separately. Col. Wilson said his concern was with CE, but added that for the sake of transparency they should probably all be separate.

Chair Frye made a motion: "I move that the committee recommends reversing the preliminary recommendations concerning the elimination for the following license types: Funeral Home."

Col. Wilson seconded the motion

Mr. Habig voted yes.  
Mr. Wright voted yes.  
Ms. Underwood voted yes.  
Ms. Duncan voted yes.  
Mr. French voted yes.  
Chair Frye voted yes.  
Col. Wilson voted yes.  
The motion passed 7-0.

Chair Frye made a motion: "I move that the committee recommends reversing the preliminary recommendations concerning the elimination for the following license types: Funeral Branch."

Col. Wilson seconded the motion

Mr. Habig voted yes.  
Mr. Wright voted yes.  
Ms. Underwood voted yes.  
Ms. Duncan voted yes.  
Mr. French voted yes.  
Chair Frye voted yes.  
Col. Wilson voted yes.  
The motion passed 7-0.

Chair Frye made a motion: "I move that the committee recommends reversing the preliminary recommendations concerning the elimination for the following license types: Certificate of Authority."

Col. Wilson seconded the motion

Mr. Habig voted yes.  
Mr. Wright voted yes.  
Ms. Underwood voted yes.

Ms. Duncan voted yes.  
Mr. French voted yes.  
Chair Frye voted yes.  
Col. Wilson voted yes.  
The motion passed 7-0.

The Committee then discussed the CE providers. Mr. Habig said the Association didn't bring it up, and he would be interested to hear what they think. Mr. Rostad said the providers currently register. The only issue is that PLA does not have the staff to keep the list updated. The association does think the providers should be registered or have a listing and the state board should approve continuing education.

Col. Wilson said he was fine with having good training. He would rather leave that to the association and the board's decision than have someone come in and get a license.  
Ms. Duncan confirmed that CE providers weren't licensed now.

Mr. Rostad confirmed that they are not licensed now. By law anything provided by certain associations is approved. Others can be approved and put on a list, but PLA has difficulty keeping the list current. The association's concern is making sure someone coming in is legitimate.

Chair Frye confirmed that the providers were reviewed by the board.

Col. Wilson said in his perfect world every board would approve CE providers like that. He added that he thinks any training offered should be looked at.

Col. Wilson made a motion: "I move that the committee maintain its preliminary recommendation to eliminate the license type for CE provider."

Ms. Underwood seconded the motion.

Mr. Habig voted yes.  
Mr. Wright voted yes.  
Ms. Underwood voted yes.  
Ms. Duncan voted yes.  
Mr. French voted yes.  
Col. Wilson voted yes.  
Chair Frye voted yes.  
The motion passed 7-0.

Chair Frye made a motion: "I move that the committee recommends to confirm its preliminary recommendation of eliminating the funeral director intern license type, instead only requiring a funeral director intern to register, at no cost to the individual, with PLA that they are working under the supervision of a licensed funeral director."

Mr. Rostad said the association did not have an issue with that, since PLA collects the fee. Mr. Pope asked what the employment agreement was. Mr. Rostad said he did not believe there was one, so there would not be a non-compete agreement.

Chair Frye noted that the motion includes that there would be an elimination of the fee.

Col. Wilson seconded the motion.

Mr. Habig voted yes.  
Mr. Wright voted yes.  
Ms. Underwood voted yes.  
Ms. Duncan voted yes.  
Mr. French voted yes.  
Col. Wilson voted yes.  
Chair Frye voted yes.  
The motion passed 7-0.

## **F. Plumbing Commission**

Chair Frye explained that the preliminary recommendation for the Plumbing Commission was elimination of the following licenses: (1) Plumbing Apprentice; (2) Plumbing Corporation; and (3) Plumbing Apprentice Program.

David Niezgodski, Indiana State Representative and owner of a plumbing company, addressed the Committee. He said his statement would be direct and he was not going to apologize for it. The group had been there before, and he said their remarks had not changed. Statement is more direct, won't apologize. We've been here before, our remarks don't change. Senator Messmer and Representative Stemler and others spoke at a previous Committee meeting. He reiterated what they had said, that no portion of the industry should face deregulation at all. He said that in light of the current issues around the country about drinking water, the preliminary recommendation would be a step backwards and create a perception that safe drinking water is not a priority to Indiana. He reminded the Committee that when the self-certification registry was passed in the General Assembly, it specifically stated that the plumbing industry would be excluded from the registry and keep their licenses. He noted that only one organization had stepped forward to be on the registry anyway.

He said he was opposed to self-certification and opposed to eliminating the apprentice, corporation, and apprentice program licenses, and he would oppose the ideas if they made their way to the Legislature. He emphasized that plumbers deal with cross-contamination, such as during embalming, to make sure no one is harmed. He also noted that plumbers have been licensed for a long period of time, and that should continue. Rep. Niezgodski owns a licensed plumbing corporation and has completed a licensed plumbing apprentice program.

John Rayburn, MCA of Indiana, expressed that he was not in favor of the preliminary recommendation. He said it could increase danger to the consumer. He noted that keeping the apprenticeship is needed to make sure drinking water is safe. IPLA lists fifteen approved apprentice programs. Apprentices learn many different skills, and getting a plumbing license requires four years of apprenticeship. Eliminating the apprentice license categories could eliminate contractors from working in certain areas, and would endanger the public.

Greg Brenneman, a plumbing contractor from Lafayette, Indiana and a board member HCCA, addressed the Committee. He offered another perspective, saying the people on the Committee came that morning looking good and smelling good. He said part of that was because the plumbing in their houses was working. People do not think about plumbing until it is not working. He said there is a lot that goes on behind the scenes. What plumbers do promotes and benefits Indiana, the state that works. Plumbers are a part of new jobs coming to Indiana because they work to help new businesses get plumbing. He said plumbing is a sophisticated and educated profession. He's been a contractor for 30 years and is convinced of the need for licensing. What plumbers provide to the community would not be maintained without a license, and taking it away would be a step back.



He explained that in an apprenticeship, the employers pay for the apprentice to go to school and have the apprentice license. They apprentice gets a four-year education and is able to make \$40-\$50,000 when they graduate. He said the program gives opportunities and elimination would be a step back, because the industry needs people. He said apprenticeship schools teach mechanical skills and it is a smooth process—the licensing is not a burden. He said his point was that plumbers are a vital part of the community and the state, and licensing is part of that, benefiting the community. He is not in favor of the preliminary recommendations.

Bill Ciriello, Chairman of the Indiana Plumbing Commission, addressed the Committee. He had been under the impression that members of the board could not address the Committee, but he was happy to find that was not the case.

He explained that the board oversees corporate licenses, and if there is ever an issue with a plumbing corporation, the board could not take action without a license. Currently, the board can discipline a company as well as the individual who committed an act, and sometimes they require different actions. He said the corporation licenses were inexpensive and not a burden. He also noted that credentialing the apprentice program was no cost to the school or the state, and all it means is that the schools submit their curriculum or programs to the board for approval. He said apprenticeship actually works and it is a good thing for the student and the company, and not a burden to the state.

Col. Wilson said he wanted to make sure he understood correctly that the license cost the school nothing. Mr. Ciriello confirmed that it was a registration, not a license.

Col. Wilson asked if the board still reviewed the curriculum and enforced a standard. He questioned the need for registration, since the board had a vested interest in setting the standard.

Mr. Ciriello said it was simply the need for the curriculum to be approved in some way. Since the registration costs nothing, he did not see the need to eliminate it. He noted that the schools could submit the curriculum online for approval.

Col. Wilson said there was a need for the board to require some level of information.

Mr. Ciriello said that the law allows the board to inspect education facilities to make sure they are giving the education they say they are giving. If that is taken out of the law, the ability to inspect would probably be taken away.

Rep. Niezgodski said the requirements ensure that there is one uniform list that has all the approved names on it. If that is separated, then the system would be confusing. The list does not require much work, so it makes sense to keep it how it is.

Mr. Ciriello added that all the school is required to do this annually to turn in paperwork. The goal is to avoid a situation where a student attends an unapproved school without knowing and is then unable to get a license. He said the board has approved schools who have submitted applications.

Col. Wilson asked whether the apprentices work under the day-to-day direct supervision of a licensed journeyman plumber. Mr. Ciriello said yes, or a plumbing contractor.

Mr. Brenneman added that a person must have a corporate license to do business in Indiana.

Col. Wilson asked Rep. Niezgodski if he had one or two licenses. Rep. Niezgodski responded that he had both a corporate license and a contractor licensed, the latter of which was required to oversee other employees. He then returned to the apprentice question, saying if an apprentice was working under a licensed contractor, it was still important to have a uniform monitoring system in place to increase

accountability with the apprentice. The current system puts the onus on the individual, rather than on someone above them. It is a structure that ensures people take the process and the profession seriously.

Col. Wilson asked for an explanation of the apprenticeship process.

Mr. Brenneman explained that when an apprentice starts, the company applies for the apprentice license for them. Then the licensed apprentice will track work hours under a journeyman plumber. Depending on the time of year, they begin going to apprenticeship school for night classes, or as an online program. This lasts for four years. At the end of the four years, the apprentice completes a practical exam, which is graded and sent to the state. The commission reviews and approves that the apprentice has met the requirements, then the apprentice is allowed to sit for the exam.

Col. Wilson asked whether there was anything between the apprentice and the journeyman besides the exam. Mr. Brenneman answered that the requirement for hours worked must also be met, as well as being registered with the bureau of apprenticeship and training at the national level. This allows an apprentice to move between states and not get behind in meeting the apprenticeship requirements. Col. Wilson acknowledged the reciprocity component present in the apprenticeship program, and confirmed that the apprenticeship requirement did not create a barrier to entry.

Mr. Brenneman agreed that it did not, and Col. Wilson said he was convinced.

Chair Frye added that statistics show that those who engage in apprentice programs earn about a quarter of a million more dollars than those who do not participate.

Col. Wilson said his original support for the preliminary recommendation was based on the inconvenience of the paper shuffle, and not the program itself.

Mr. Habig inquired whether the state regulates electricians or carpenters.

Brian Lebo, a contractor, plumber, and heating contractor, addressed the Committee. He said he has heating apprentices and plumbing apprentices. The regulation on heating and electricity experts are greater because they have to register in each small location. He would rather have a state license for those professions as well because it would be more convenient. HE also said when plumbing apprentices get their license they are very excited. His company is glad to pay for tuition and books without holding the apprentices to an agreement because it is a benefit on both sides, and to get rid of the license would be unfortunate.

Rep. Niezgodski confirmed Mr. Lebo's comments and said that licensed plumbers are responsible for apprentices, but often send them to other areas to do work, so there must be a system in place to hold the individual apprentices responsible for their work.

Chair Frye made a motion: "I move the committee reverses its preliminary recommendation and keep all license types administered by the Indiana Plumbing Commission."

Mr. Wright said he thought the Committee had voted to eliminate the professional corporation license for all professions.

Chair Frye said when the Committee voted earlier, all of the professions would have been listed. The corporations still have to be registered with the Secretary of State, and PLA still works with their office. She said her motion just now did include all license types, so she could amend her motion. "I move that the Committee reverse the preliminary recommendation and keep the plumbing apprentice and plumbing apprentice program licenses."

Col. Wilson asked for a brief discussion. He recalled that when the Committee talked about corporate licenses last time, they said they would include all corporations, and they could exempt licenses. So before getting too far down the road, he wanted to ask if it was the will of the Committee to exclude plumbing corporation licenses from the motion, since that was still possible. He said the current motion did not need to be bifurcated in that case.

Mr. Wright said he did not understand the reasoning of having professional corporations register with the PLA. Other business types are not required to submit paperwork. It seems that since the corporation is already registered with Indiana without registering with PLA, and LLCs, etc. are not required to do it.

Mr. Ciriello said that if a company was a sole proprietorship, the individual owned the company and his license could be disciplined for any problems with the company. But a corporation does not have to have a licensee as the head of the company, so it might not be able to be disciplined for a problem. Mr. Brenneman added that if the corporation gets into trouble, the commission can hold the corporation accountable.

Mr. Ciriello said he thought LLCs usually got a professional corporation license as well. He opposed doing away with the license because it is inexpensive and it allows the commission to discipline the company if necessary. Mr. Brenneman added that the contractor is an individual, but the corporation is an entity.

Rep. Niezgodski said he was sure it was not the will of the Committee to uniformly make a motion that would apply to every motion throughout the day, since those would be subject to change. Feeling that it had not been the will of the Committee, he suggested that they could amend the motion so that ongoing discussion could be had.

Col. Wilson said he believed the motion they had been looking to make was a recommendation that the registration for corporations be moved to the Secretary of State's office so that the corporations do not have to file duplicative registrations.

Rep. Niezgodski said they were asking unequivocally to keep the professional corporation license. Chair Frye said they would be carving it out from the original motion. Mr. Wright wanted to know why it was important for a professional corporation to be licensed but not an LLC. Rep. Niezgodski answered that if an LLC owned a professional corporation, the professional corporation would still need a license. Mr. Wright said he envisioned LLCs as an alternative business structure. Col. Wilson added that if an LLC owned a plumbing corporation and conducted the business, they would still be responsible.

Rep. Niezgodski said the LLC would have a license under the umbrella of the professional corporation. If it is under the Indiana structure, the company cannot just have a lot of licensed plumbers, they have to be licensed as plumbing corporations.

Col. Wilson said he was sold on that, but he was trying to understand, since Mr. Wright raised a good point, and it was important to scrutinize the license.

Mr. Pope said he had been reading the statute, and thought if they stopped using the word "corporation" it would help with understanding. The plumbing contractor is a licensed plumber or business entity that can engage in plumbing contracting. The plumbing corporation is the entity that is allowed to be owned by a non-plumber, but they have to have a licensed plumbing contractor working for them. So it is a means by which the plumbing business can be owned by a non-plumbing professional. That is the purpose of the corporation license. In various professions there are different rules about who can own the company. This is the mechanism by which they allow plumbing businesses to be owned by non-plumbers. The statute does not take into account the LLC and others. The purpose is that it allows non-plumbing entities to own a plumbing company.

Chair Frye said that the purpose of the discussion was not to remove the statutory requirements. Even if PLA no longer collects the fee to process the documentation and shifted it to the Secretary of State, that does not remove the necessity of the corporation meeting the statutory requirements.

Col. Wilson noted that there was nothing in the statute keeping PLA from maintaining the authority in this case. Chair Frye said PLA could work with the Secretary of State.

Rep. Niezgodski said he felt uncomfortable with that because if the license was done away with, it would require a change in statute, which could have many more implications than just giving the registration requirement to the Secretary of State. Once the statute is opened, it is opened. The best thing for Hoosiers has to be considered, and Governor Pence's slogan is a state that works, so it needs to be kept that way.

Mr. Habig said that at the end of the day he still thought that since the person doing the work needs to be a licensed plumber, then regardless of who owns the company, the person doing the actual plumbing work is still responsible and held accountable by the state.

Rep. Niezgodski pointed out that if the corporation license is being taken away, then it doesn't have to have a license. Mr. Habig reiterated that a licensed plumber would still be doing the plumbing. Rep. Niezgodski felt there was no guarantee of that, and no one in the industry had a problem with the license, so it should be left alone. He added that they have made it very clear that the apprenticeship program brings in more wages and there is no up-front cost that is prohibitive. The industry needs more workers, and if the system is not broken, why try to fix it?

Ms. Underwood said there are many projects. Some are residential, but others are huge projects with many apprentices and journeymen and the point that there needs to be someone who is responsible and overseeing the project is valid. She can see where there could be issues with transfer of ownership that the license would be useful for.

Chair Frye noted that there would still be a licensed individual who would have to make sure they had the corporate designation. She added that the motion had been to keep all license types – so that included professional corporations, apprentice programs, and apprentice licenses.

Mr. Wright seconded the motion.

Mr. Habig voted no, explaining that he was still not sold on the professional corporation license.

Mr. Wright voted no, agreeing with Mr. Habig.

Ms. Underwood voted yes.

Ms. Duncan voted yes.

Mr. French voted yes.

Chair Frye voted yes.

Col. Wilson voted yes, explaining that he agreed with Mr. Habig and Mr. Wright about the professional corporation issue, but it was not a hill he was willing to die on, since he had changed his mind about the apprentice program.

The motion passed 5-2.

The Committee took a break for lunch at 12:10 p.m. and reconvened at 1:34 p.m.

## **G. Committee of Hearing Aid Dealer Examiners**

Chair Frye explained to the audience that the stakeholders from the Hearing Aid Dealers profession needed to catch a flight, so they would be moved up on the agenda and heard now.

She explained that the preliminary recommendation was to eliminate the Committee of Hearing Aid Dealer Examiners and all license types.

Mike Shaunts, president of the Indiana Hearing Aid Alliance and Michael Gorgon from the International Hearing Aid Society addressed the Committee.

Mr. Gorgon said his organization represents all hearing aid professionals, of which there are 9,000 in the country. He asked the Committee to rescind their recommendation. The barrier of entry into the profession is reasonable in Indiana and the licensure fees are very low. Given that the age, education, and fee requirements are low, the competency examination is the only barrier, and it keeps out those who have not been able to demonstrate adequate knowledge to safely and effectively practice.

Hearing aids themselves look like a consumer electronic device, but hearing aid specialists are trained medical professionals and hearing aids are class 1 or 2 medical devices. He said one of the errors in JCC's original recommendation was the assumption that people who need hearing aids are under a medical professional's care. He explained that 90% of people sign a waiver to not have a medical examination. Therefore, hearing aid dealers may be the only medical professional the customer sees. There are only eight conditions that a person would need to have to require them to see a medical examination before getting hearing aids, and the dealers would have to be able to identify those conditions. Their ability to do that is established through the competency exam.

Mr. Gorgon noted that they have historic and current examples of what happens when hearing aid dealers are deregulated. Currently, all 50 states have followed the advice and licensed the profession. Colorado removed their license because of the low number of complaints. But during the 10 years the profession was deregulated, they saw a 6-fold increase of complaints. These centered on physical harm to the patient. The JCC was provided with a letter from Colorado about the situation. The JCC thought the situation would be different today with internet, but this seems unpersuasive since the internet has opened up new opportunities to fraud. Also, people who get hearing aids are typically not very likely to be able to use the Internet. People who get hearing aids are typically over the age of 60, and many of those people do not have internet access.

Beyond consumer protection, Mr. Gorgon said there are negative repercussions, including destruction of jobs. Several state and local programs, including the VA, require a licensed practitioner. Removing the license would preclude hearing aid dealers from participating in insurance, etc. It would cut off the access for vulnerable populations and could have a negative impact on jobs. This seems to be solving a problem that does not exist. The requirements are not burdensome. Indiana's ratio of providers to patients is a little ahead of the curve.

Chair Frye asked about Medicaid reimbursement.

Mr. Gorgon answered that the current statute says that the provider must be licensed. Removing hearing aid dealer licenses would remove them as people who could provide hearing aids. He added that hearing aid dealers provide about 50% of non-veteran hearing aids.

Leland Gibson from Loogootee, Indiana addressed the Committee. He explained that he went to a hearing aid specialist to get hearing aids. He had two in-ear hearing aids that quit working, so he got new ones that turned out to be used, almost two years old. His specialist did not know how to he knew they were used. He explained that it was in the instruction booklet. Mr. Gibson thought that if the person did not know an old battery from a new one, the regulations needed to be tightened. They should be required to know what was going on with the hearing aid systems.

Mr. Gibson explained that he then went to see Karin Schmidt, who is a hearing aid dealer. She started the process over with him, retested his hearing, and gave him new hearing aids. When they caused him trouble she called the factory to get the problem fixed. He wanted regulations tightened to make sure the dealers would not take advantage of customers.

Ms. Schmidt addressed the committee, saying that the individual mentioned was on probationary status. She asked that the Committee not take the regulation away, and instead to strengthen it. She said they need to look out for the senior population and protect them from fraud. Hearing Aid Dealers can help them and can identify skin cancers and tumors on their ears. She said she could bring in more people to say the same things as Mr. Gibson.

Ms. Duncan confirmed that the first hearing aid dealer had a license.

Ms. Schmidt said they did have a license, but Mr. Gibson was without internet service to know that.

Mr. Pope asked if anything had been done to hold the dealer accountable. Ms. Schmidt answered that she did not know the extent of what had been done, but the individual was not practicing in her town.

Mr. Habig asked what the recourse would be if there were no license—was there any option besides the court. Mr. Pope answered that the court would be there, but part of the reason for the regulation is that the court is not always deemed adequate for particular situations.

Ms. Schmidt said she had seen people in her office who were afraid to pursue legal action because they were afraid of repercussions.

Mark Scherer from the Indiana Speech-Language-Hearing Association said they are opposed to the preliminary recommendation. He said there was an audiologist in the audience during the meeting, but she had to leave. Her name was Sheena Tatum, and her presentation would have reinforced what had already been said. He gave examples from her report about what could happen if there was no trained hearing aid dealer, especially a situation in which a person would need a medical referral but the dealer would not know that was the case. He noted that hearing loss is a symptom, not a diagnosis. Fitting hearing aids can be insufficient or too much of a correction that can cause harm. Even taking ear impressions for hearing aid shells could cause harm to the ear or rupture the ear drum if done incorrectly.

Col. Wilson said he did not recall the Medicaid issue coming up in initial testimony. He asked whether the position was that unlicensed hearing aid dealers could not be reimbursed by Medicaid.

Mr. Gorgon replied that the rules specifically refer to a licensed provider. Col. Wilson asked whether that would require legislative change. Mr. Pope said it would require administrative rule change.

Col. Wilson asked what kind of money the issue involved. Mr. Gorgon did not know.

Mr. Habig asked whether hearing aids were prescribed. Mr. Gorgon answered that they are not prescribed. A person can have a screen and have their hearing checked and be checked for the eight conditions mentioned earlier, then go forward with the fitting for the hearing aids.

Mr. Habig mentioned that he could not get glasses or contacts without seeing an optometrist. Mr. Gorgon said the hearing aid dealers could be sole providers, the physician does not have to be involved with hearing aids. Col. Wilson asked whether an audiologist was a hearing aid dealer. Mr. Gorgon responded that there was a triangle of the hearing profession: the doctor, who is an ENT, audiologists, who work in rehab and can choose to deal hearing aids, and hearing aid dealers, who focus solely on fitting hearing aids.

Mr. Scherer said that audiologists may work for hearing aid dealers. Mr. Gorgon added that most hearing aid dealers are private. Only about 3.3% work in a medical practice. Many times people go to hearing aid specialists without seeing a physician.

Mr. Pope asked what the prerequisites were for an audiologist license. Mr. Scherer answered that they needed a doctor of audiology degree. Mr. Pope asked why a medical professional was not required to deal hearing aids, considering the seriousness of some of the medical issues discussed. Mr. Gorgon answered that in 1977 the consent was that properly trained hearing aid specialists would be adequately trained to know when a referral was necessary, and when it was not. The goal is to maintain the competency exam so that they are trained to know when to refer.

Ms. Schmidt said she had referred people out who had tumors or infections that were life threatening. Family Practitioners were not always well-versed in ear infections and similar issues. Hearing aid dealers have rapport with their communities to help with things like that.

Mr. Pope asked if Ms. Schmidt thought hearing aid dealers' expertise made them better than physicians. Ms. Schmidt answered that in some instances of ear issues, she thought that was the case. She said she was not saying she was better than a physician, and she could not diagnose, but she can refer people.

Mr. Gorgon added that it was screening, not diagnosis. Ms. Schmidt added that she took it as her responsibility to make sure her clients got good care. Mr. Gorgon said the concern is that without the exam, the hearing aid dealer may still be the only person a client sees, but the dealer would not have the competency to make sure the client did not miss out on a medical diagnosis that could save their life.

Mr. Pope said that on page seven of the International Hearing Society presentation, they mentioned that sudden deregulation would allow unscrupulous players to prey on consumers. He said he had thought about the issue also and asked if they had recommendations about how to overcome the problem, or whether there was no other option for regulation after licensing had been instituted.

Mr. Gorgon said he was not sure how that would be overcome. He would refer back to the knowledge and skills that were necessary for the license. The association was also concerned that if Indiana became the only state to deregulate, it would become a beacon for all the de-licensed people to come. He noted that the provider from Colorado who provided a letter to the Committee talked about how long it took to build public trust again after reinstating the license requirement.

Chair Frye made a motion: "I move that the committee reverse its preliminary recommendation to eliminate the Committee of Hearing Aid Dealer Examiners and the requirement of issuing licenses for hearing aid dealers."

Mr. French seconded the motion.

Chair Frye voted yes.

Mr. Wright voted yes.

Ms. Underwood voted yes.

Ms. Duncan voted yes.

Mr. French voted yes.

Mr. Habig voted yes.

Col. Wilson voted yes.

The motion passed 7-0.

Chair Frye asked the presenters to speak to the apprenticeship and internship.

Mr. Gorgon answered that it was a hands-on learning situation. They are trying to build some standards because every state takes a different approach. The internship and trainee license is important to get those hands-on skills. He said they were hoping to move forward with the national apprenticeship requirement.

Chair Frye asked if there was a standard time of the apprenticeship before testing.

Mr. Gorgon answered that every state is different. They have focused on a 2-year program that is competency-based. He said there is no standardization at the moment, and it is important to have regulatory flexibility, but they are hoping to create a benchmark with the program.

Chair Frye asked how long it would take someone entering the profession to acquire the necessary skills.

Ms. Schmidt answered that it depends on how much knowledge the person comes in with, and having a medical background helps. Knowledge of physics of sound and electronics, and diseases of the ear are important. She mentioned that she sees people three to four times after delivery to make sure the hearing aid fits correctly. It took her about a year and a half to be prepared for the job.

Allen Reese, chairman of the Committee of Hearing Aid Dealer Examiners, said students are licensed a year at a time. They usually come in at the end of nine months to take their first test. After completing the written portion, they come in three months later to take the practical portion, so they are training for at least a year, and that is for a student hearing aid dealer, which is a registration rather than a license.

Col. Wilson said this situation was similar to the one with pharmacy technicians. The person is working under the supervision of someone who is a licensed professional. He suggested making the student registration go away, since they are working under direct supervision.

Chair Frye made a motion: "I move that the committee recommends the elimination of the student hearing aid dealer certificate of registration. In making this motion, I also move that the committee recommends that students or interns still be allowed to practice under the direct and immediate supervision of a licensed hearing aid dealer given the educational value of having such an experience, benefiting both the profession and health and safety of the general public."

Col. Wilson seconded the motion.

Chair Frye voted yes.

Mr. Wright voted yes.

Ms. Underwood voted yes.

Ms. Duncan voted yes.

Mr. French voted yes.

Mr. Habig voted yes.

Col. Wilson voted yes.

The motion passed 7-0.

## **H. Auctioneer Commission**

Chair Frye explained that the Committee's preliminary recommendation was to eliminate the Indiana Auctioneer Commission and all auctioneer licenses.

Seth Seaton from the Indiana Auctioneer Association, and also an auction company representative and licensed auctioneer, presented to the Committee. He explained that he had presented to the Committee twice in 2015, and appreciated a third opportunity. The association supports licensure and asks the



Committee to reconsider the recommendation to delicense. He explained that the profession went through this in 2012 with the ROEC committee and came out with the recommendation to maintain licensure, and they went from four to two licenses. Those are the auction company license and the individual auctioneer license. He said they as an industry are in the business of selling the assets of others, converting it to cash and handling all the cash they take in, which is a lot of money. Sometimes these funds are retirement or long-term care plans, which need to be held in trust and be given to the appropriate parties. His company has had up to \$36 million flow through the escrow account in a year. He noted that having a license does not automatically mean the funds are handled appropriately, but there is a recourse for consumers through the auctioneer recovery fund. Consumers benefit from being able to see that there is a system to find recourse if they are wronged outside going to court. He also mentioned that auctioneers benefit from being required to participate in continuing education, which helps reaffirm the proper handling of funds, proper use of contracts, and proper business conduct. Reciprocity is also a substantial part of why the license is important. Indiana has reciprocity with fourteen other states and over twenty percent of licensed professionals take advantage of that reciprocity. Mr. Seaton pointed out that the potential harm of being unregulated is the increase in theft of funds. People with a record of theft or embezzlement cannot get a license currently, and delicensing would allow those people to become part of the profession. He does not see any alternatives to regulation, and the IAA does not have the teeth to be able to regulate, as they only represent 300 of 500 licensees in the state. They would only be able to revoke membership, which would only bar the auctioneer from accessing the CE provided by the association.

Mr. Seaton asked the Committee to reconsider the recommendation because there is no organization to oversee the profession if IPLA does not fulfill the role, and the amount of cash auctioneers handle for others makes regulation necessary.

Col. Wilson said he did not understand the purpose of the auction company licenses, since the individual auctioneers were licensed and they were handling the funds.

Mr. Seaton answered that there are many contract auctioneers, and when his father started their auctioneering company, he was not licensed, but the company itself handles the funds. That necessitates the corporation license.

Col. Wilson asked if existing business law would protect the individual from fraud. Mr. Seaton said it would, but it would take up more of the court's time. The licensure means more than just the ability to hold auctions. Auctioneers can be consultants on handling asset liquidation. There is more to the industry than just standing on the block.

Col. Wilson asked what the board can do besides pull licenses. Mr. Seaton answered that is where the auction recovery fund comes into play. The Commission hears the cases and is able to award finances from the auctioneer recovery fund.

Col: if that's the case wouldn't existing business law protect the individual from fraud?

Chair Frye said that since 2008 the Attorney General's office has completed 316 investigations and opened 113 litigation files. In addition, 22 states license auctioneers, which accounts for 85% of the auctioneers in the United States.

Mr. Wright asked whether Ebay needed a license.

Chair Frye noted that it was a hot topic.

Mr. Seaton said it is a state-by-state case. Ohio's auction statute says that they do not consider online activities to be auctions. Indiana has not addressed the issue, and other states do not require a license. It depends on where the auction is taking place. If the auction is online in Pennsylvania for land in California, it can be confusing. He noted that Indiana has the highest density of auctioneers in the country.

Ms. Duncan asked whether there was a license required for CE providers.

Mr. Seaton said they have to be approved, and he believed they were required to be licensed. But as far as practicing auctioneering, there were only two licenses compared to the previous four.

Col. Wilson asked whether the Committee had been considering education. Chair Frye said they were considering them all, but that the motion was to keep them all.

Col. Wilson said he was in support of licensing the auctioneer and less in support of licensing the company, but he thought that if the CE providers needed to get their curriculum approved by the Commission, it seemed unnecessary to license them as well.

Chair Frye explained that the function was the same as for the previously discussed CE courses, allowing the board to make sure the educators maintained their curriculum.

Mr. Seaton said their association was the highest provider of CE. Auctioneers pay a \$70 fee and complete education. He does not see that the commission would be affected by the elimination of the license.

Mr. Habig asked whether there were employees under the company who did not have an auctioneer license, and whether the company being licensed meant the individual did not need a license.

Mr. Seaton said out of his staff, five were auctioneers and the others were unlicensed. Col. Wilson asked what unlicensed staff did. Mr. Seaton said they were administrative. Mr. Habig clarified that Mr. Seaton was licensed to do business in Indiana. Mr. Seaton said that was true.

Chair Frye noted that there was a motion on the table. She asked whether there was a second or another will of the committee.

Col. Wilson moved that the committee recommend to retain the individual auctioneer license and the company license, and eliminate all other licenses.

Chair Frye mentioned that they were specifically including CE provider and pre-course provider in the "other licenses" category.

Walter Baker, from the Indiana Auctioneer Association, addressed the Committee, saying that one of the largest auction schools is located in Indiana and serves multiple states. Eliminating the course provider license would eliminate their business.

Col. Wilson asked why that would be the case, since they would still have a recognized curriculum.

Mr. Baker answered that eliminating the license would mean the school could not participate across state lines because of reciprocity.

Mr. Seaton added that the regulations in Illinois are especially burdensome.

Col. Wilson expressed frustration at this. Mr. Seaton appreciated the frustration, but said there had been substantial money put into allowing the education to be up to speed and online, and the auctioneer profession requires the same amount of education as the real estate industry. IAA would do fine without the license, but other providers would struggle.

Col. Wilson noted that Indiana had reciprocity with Illinois, Kentucky, and Ohio, but Ohio doesn't have reciprocity with those states, so they get it through Indiana.

Mr. Baker agreed that was the case as long as the guidelines were followed.

Mr. Habig said he was looking online at IPLA's website and pre-course providers. The website says the pre-course providers are approved by the auctioneer commission.

Col. Wilson said his understanding was that it was a license. Chair Frye said she could not speak specifically without looking it up.

Mr. Seaton felt relatively sure it was a license.

Col. Wilson said at the end of the day his position was always that if there is a function the state really needs to license and they were doing it in the least intrusive way, that was fine. If the method was not the least intrusive, he felt that it needed to be changed, and he felt that auctioneering was one of those cases.

Ms. Underwood seconded the motion.

Chair Frye voted no.

Mr. Wright voted yes.

Ms. Underwood voted yes.

Ms. Duncan voted no.

Mr. French voted no.

Mr. Habig voted no, and explained that he had concerns about the reciprocity implications. He was concerned about licensing every aspect of the profession, but the situation with reciprocity was concerning enough that he chose to vote no.

Col. Wilson voted yes.

The motion failed 3-4.

Chair Frye made a motion: "I move that the committee reverse its preliminary recommendation of elimination of the Indiana Auctioneer Commission and all associated license types."

Mr. Habig seconded the motion.

Chair Frye voted yes.

Mr. Wright voted no.

Ms. Underwood voted yes.

Ms. Duncan voted yes.

Mr. French voted yes.

Mr. Habig voted yes, and explained that he was concerned about the licensing requirements on the company, but he sees a possible public need for accountability. He would like to understand the avenues with the Secretary of State.

Col. Wilson voted no.

The motion passed 5-2.

## **I. State Board of Health Facility Administrators**

Chair Frye reminded the Committee that the preliminary recommendations for Health Facility Administrators were to keep the HFA, RCA, HFA Provisional, and HFA CE Sponsor licenses, and eliminate the Preceptor Eligible, HFA Preceptor, and RCA Preceptor licenses.

Vivian Wright Defrees from the American College of Health Facility Administrators Indiana Chapter, and William Watson II, HFA Board Director Emeritus, addressed the committee. Mr. Watson was part of writing the current regulations about preceptors. He came to Indiana in the 1970s and Indiana wouldn't let him practice without experience since he did not have an AIT (Administrator in Training). Around 2002 Indiana stopped the preceptor license and moved the preceptorship into a certification through CE. This was because they had found some preceptors had been cranking out administrators without taking any CE. Mr. Watson was unsure what the preceptor eligible was, but it was not a license. The only licenses now are the 1400 series license, and the 1500 series licenses are all lapsed. Eliminating those is no problem. The preceptor certification process must stay because it is set forth by the national association of boards in Washington D.C., which basically regulates all the boards. They are in the process of giving standards. Mr. Watson said his purpose in speaking was to make sure the preceptor is not eliminated, because without the preceptor there can be no AIT, and without the AIT there can be no administrators at all. Medicare and Medicaid are clear that there must be an administrator in a health facility. Without that, the facilities cannot practice.

Ms. Defrees said they want to make sure it is clear what would happen when eliminating the licenses. The 1500 series license does not really get used, they just want to make sure everyone has clarity and are all talking about the same licenses.

Mr. Habig clarified that they were not opposing removing the requirement to have a preceptor license as long as the preceptor program was still in place.

Ms. Defrees said the regulations have criteria to be defined as a preceptor. They do not use the "licensed preceptor" term, but the function is not being changed.

Mr. Watson said as long as the requirement to have a preceptor is maintained, they are fine with getting rid of the preceptor license.

Chair Frye assured them the Committee did not want to get rid of the preceptor or do away with the AIT, but they simply did not see the need for the preceptor license or eligible designation. The requirements would stay the same, along with the continuing education, but the designation would go away.

Ms. Defrees said they had several members who were concerned, so she told them she would come clarify.

Mr. Watson said the other piece is that he practices in eight states, and he has those licenses because he is an Indiana operator and can put years of experience behind that. For a new license without the preceptor AIT process, there are only a handful of states that an HFA could get a license in. That is in the process of changing and over the next four to five years there will probably be a more specific post-acute care license.

Col. Wilson asked whether this fell into the realm of cleanup. He noted that it did not seem to change the requirements or powers of the board at all.

Mr. Watson confirmed that it would just make the 1500 series license go away.

Chair Frye said that the Committee had heard some testimony previously that there was sometimes difficulty getting someone to serve as the preceptor for the trainee. Was there any benefit or would it be a hindrance to allowing an administrator to work with more than one individual at a time in the training capacity?

Ms. Defrees said if you have two AITs in that situation, the preceptor could end up with free labor. They want to make sure that there is enough facility and opportunity for the student to learn. They must take both federal and state tests, and they have people's lives in their hands, so the goal is to make sure they have a good experience. She believes the determination should be on a case-by-case basis.

Mr. Watson said there is a reason current regulation says one AIT. Part of the reason the board did that was that a licensed preceptor had three AITs in three buildings and for all intents and purposes they were sitting administrators. He would be very hesitant to allow more than one AIT. They need to meet a certain level of quality and professional level of competence. An AIT needs a minimum of half a year, and unless the administrator is very strong, it would be difficult to do two AITs and do them well. He could do two, he said, but doing them well is an issue and there is no need in the business for people who do not know what they are doing. If they make a mistake, they lose their ability to work in healthcare.

Ms. Defrees added that they want to make sure AITs are trained well because they have a lot of responsibility.

Chair Frye made a motion: "I move that the committee recommends to deregulate HFA preceptor and RCA preceptor licenses by reclassifying the licenses as certifications. In making this change, I further move that the education requirement be struck and the validity of the certification be extended to the length of a renewal cycle.

Mr. Wright seconded the motion.

Chair Frye voted yes.

Mr. Wright voted yes.

Ms. Underwood voted yes.

Ms. Duncan voted yes.

Mr. French voted yes.

Mr. Habig voted yes.

Col. Wilson voted yes.

The motion passed 7-0.

Chair Frye noted that veterinarians were listed on the agenda but the business was already taken care of with the administrative recommendations.

## **J. Board of Pharmacy**

Chair Frye explained that the preliminary recommendations for the pharmacy profession were to keep the following license types: pharmacist, wholesale drug distributor, pharmacy, CSR, non-residency pharmacy, home medical equipment service provider, and CSR-Pharmacy. The Committee tabled making decisions on the following license types: pharmacy technicians, pharmacy technicians-in-training, CE sponsors, pharmacy interns, and pharmacy technician training programs.

Col. Wilson noted that no one representing the profession had attended the meeting, but he had a question to pose anyway. He recalled the Committee having a robust conversation about the technicians. He thought one of the considerations the pharmacy people were talking about was telepharmacy. He did some research,

and even in telemedicine there is no equivalent to a technician. There are people with significantly more training engaging with the doctor in the telemedicine arrangement. He said he was struggling with the technician issue. He believed that there was some validity to the reasoning that licensing technicians kept bad actors out, but it concerned him that there was a desire to use technicians in telepharmacy. He suggested perhaps making a recommendation to keep the technician license, but advise against not having a licensed pharmacist overseeing them.

Chair Frye said an individual must be licensed to be in the pharmacy. The only other option is if the person is only operating the cash register or doing cleaning or maintenance. A licensed pharmacist is required to be present at all times to qualify the pharmacy to have its doors open, and the technicians are that pharmacist's responsibility. Removing the technician licenses would mean they cannot work in the pharmacy anymore.

Ms. Underwood said that would send the wrong message considering the current issues with the drug crisis.

Grant Monahan from the Indiana Retail Council addressed the Committee. He said he was not an expert in pharmacy, but the role of the pharmacy technician is invaluable. He noted that the duties and relationship had been well described, and he would urge retaining the license. The demand for pharmacy services is increasing and having a pharmacy technician there is critical to the operation of a pharmacy.

Col. Wilson said he supported technician licensure, but his struggle was with the technician in training. He assumed that the rule about licensees in pharmacies would still apply, though.

Chair Frye said it is an entry-level license.

Ms. Duncan said she thought the Committee was surprised by the lack of training requirements on technicians.

Mr. Monahan said each pharmacy has their own technician training program and the program must be approved by the board. There is more involved than just walking in and getting a certification.

Mr. Wright asked whether the technician in training is the one someone can walk in and get as opposed to the technician license. Mr. Monahan said a person walks in and is hired to be a technician in training, then they start getting trained, which leads up to being a technician.

Chair Frye said a member of the pharmacy board came and told the Committee that the industry is looking at a national test model, but it is not expected to roll out until approximately 2020. The board is mindful of looking at whether they need to consider the training program more closely now.

Col. Wilson said the statute makes the need for licensure clear in those cases, since people need to be licensed to be in the room. But that gets back to the training programs and interns.

Chair Frye said the same situation applied to interns. They need the internship to graduate, and they need a license to be in the pharmacy.

Mr. Habig asked whether the training program was for the pharmacists or the technicians.

Chair Frye answered that it was for the technicians, since the pharmacists were required to have a degree. The technician training does not have to be on-the-job, there is a test they could take, also.

Col. Wilson said he thought CE sponsors provided all continuing education, and the training program is specific to the technician. He believed it was duplicative to license the person and the education provider.

Chair Frye made a motion: "I move that the committee finalize the preliminary recommendation for the Board of Pharmacy to continue to administer and issue licenses for pharmacists, wholesale drug distributors, pharmacies, CSRs, non-residency pharmacies, home medical equipment service providers, and CSR-Pharmacies.

Ms. Underwood seconded the motion.

Chair Frye voted yes.

Mr. Wright voted yes.

Ms. Underwood voted yes.

Ms. Duncan voted yes.

Mr. French voted yes.

Mr. Habig voted yes.

Col. Wilson voted yes.

The motion passed 7-0.

Chair Frye made a motion: "I move that the committee continues to evaluate the remaining license types which include pharmacy technicians, pharmacy technicians-in-training, CE sponsors, pharmacy technician training programs, and pharmacy interns."

Col. Wilson said he was not sure about the value these licenses added. The state requires people to be licensed to work in the pharmacy, so it seems that the Committee should recommend that they continue to be licensed until such time as the testing process changes and then the JCC can look at them.

Chair Frye said the benefit would be to look at the recommendations the Committee could make for enhancing education requirements.

Ms. Underwood seconded the motion.

Chair Frye voted yes.

Mr. Wright voted yes.

Ms. Underwood voted yes.

Ms. Duncan voted yes.

Mr. French voted yes.

Mr. Habig voted yes.

Col. Wilson voted yes.

The motion passed 7-0.

## **K. Real Estate Appraiser Licensure & Certification Board**

Chair Frye said that the preliminary recommendation for the Real Estate Appraiser Licensure and Certification Board was to table the appraisal management company and appraiser trainee.

Mark Ratterman from the Real Estate Appraiser Licensure and Certification Board addressed the Committee. He said he could answer questions and give some comment on the recommendations. The board has tried to minimize their rules as much as possible, because the profession has a lot of oversight by the federal appraisal subcommittee, which is a subcommittee of bank examiners.

One thing the Committee recommended was the elimination of the exam for trainees. Mr. Ratterman said if the Committee wanted to get rid of it, the board would be happy to put it in rule. The test was originally put

in place because the examinations are very difficult and the trainees sometimes get into the business and then find they cannot pass the licensure exam. The trainee test helps them not waste two or three years trying to do something they cannot do. However, he and his fellow board members would be okay with getting rid of the trainee exam.

Col. Wilson asked what the purpose of the test was.

Mr. Ratterman answered that the training providers are not known for how well they educate, rather it is about how well the students get through the curriculum. Students are often looking for an easy curriculum rather than the best education. The value of the exam was to keep the education levels up and keep the quality up. However, right now there are only two significant providers of education, and they are in Pennsylvania and Indiana's trade association. The test is not necessary now like it used to be.

Col. Wilson asked if there would be any unintended consequences that would result from getting rid of the trainee test.

Mr. Ratterman said no, and that 48 other states already do not administer the test. He said the board also has rules to reduce the hours required from 90 to 75. The profession needs new people so they are looking at how to get new people in by making less barriers to entry.

Chair Frye made a motion: "I move that the committee recommends removing the requirement that real estate appraiser trainees be required to take a pre-licensing examination."

Mr. Habig seconded the motion.

Chair Frye voted yes.

Mr. Wright voted yes.

Ms. Underwood voted yes.

Ms. Duncan voted yes.

Mr. French voted yes.

Mr. Habig voted yes.

Col. Wilson voted yes.

The motion passed 7-0.

## **L. Real Estate Commission**

Chair Frye reminded the Committee that the preliminary recommendation for the Real Estate Commission had been to table real estate broker company, instructor registration – real estate broker, real estate instructor permit, real estate branch office, and real estate school.

Maggie McShane from the Indiana Association of Realtors addressed the Committee. She asked that the license categories be maintained. She explained that the profession took an opportunity to look at reworking industry laws before someone did it for them after the 2008 economic issues. A task force was formed to look at all the license law requirements to streamline and modernize. They wanted to make sure they had efficiency, whether there was sound consumer protection involved, and whether there was value to the trade group membership. Those were the overarching goals. They minimized the role of the apprentice. Overall, they went through the process of reviewing the industry from 2010 to 2014 in a similar manner to what the JCC is doing. Ms. McShane noted that Governor Pence commended them as being a model for other professions by taking an introspective look at their profession. One of the trade-offs the association agreed to with the General Assembly was that they would be committed to improving the quality of continuing education. She said they see a continuing role in the schools for helping the profession keep track of the



continuing education, so they feel that the requirements for instructors should stay. They are also concerned about fly-by-night instructors coming in and giving bad education. They do not find the instructor requirements burdensome. When they work toward improving the quality of education, they want to modernize it and have the authority to make sure that happens. She said the IREC has a subcommittee that looks at education and sets minimum standards. There is only so much that can be learned in a school, so the schools need a little extra regulatory nudge to help them keep their end of the deal. She asked that the Committee maintain the licenses as they are and give the changes more time to work. The association members do not find the paperwork to be burdensome. They appreciate the work IPLA does, and feel their profession has been ahead of the curve.

Col. Wilson asked for clarification between the broker company license and the branch license.

Ms. McShane answered that the branch has a registration.

Col. Wilson asked why it was necessary to have a registration. If there was already a corporate umbrella, it did not seem to make a difference how many satellite sites there were.

Ms. McShane answered that there is not one business model for real estate. There are sole proprietorships and big companies and national companies, and some that operate in small markets but have branch offices that are run by principle brokers. The rules of IREC have evolved to allow those branch offices. At one time, the name of the principle broker had to be a specific size and font, and those are things that have been thrown out, but there has been a proliferation of the branch offices, and the consumer needs to be able to know at any specific time who is in charge of the branch. The branch registration is what is used to know who the manager and principle broker are of that organization. The principle brokers who operate with that model find it useful to them. Other businesses do not have that because they do not operate in a regulated market.

Col. Wilson asked why there could not just be a picture of the broker in the branch office.

Ms. McShane answered that the addition of a government role gives people confidence. Realtors have a high regard for the value of their professional license. The biggest concern is that the guy across from them is not able to do their job, and they have to make decisions. They want everyone to be held to the same standard. The burden is a trade-off for the value they get in return, and for the consumer protection.

Col. Wilson said that was the best explanation he had heard.

Ms. McShane said she understood the desire to reduce regulation, and noted that their agents were independent contractors. Real estate offices come in many forms that are obscure to the public and involve lots of old fashioned terminology.

Ms. Underwood said that, having purchased and sold property over the years, she had to say that the role of realtors is difficult. Many states require that there be an attorney, but Indiana does not require that.

Ms. McShane said that the association opposes the addition of an attorney. But she acknowledged that the complexity of the transaction was another reason they have pushed for reform and continuing education. She asked the Committee not to overlook some of the initiatives that are ongoing, such as licensees being able to track CE online.

Chair Frye said that the transition was an overwhelming burden when the change was instituted so that the license could be changed in the transition. Ms. McShane added that Indiana did not have the same problem as other states, who left people without the ability to practice.

Ms. Underwood asked about the distinction between a broker company and a professional corporation.

Ms. McShane answered that a broker company could get a license and not get the articles of incorporation with the Secretary of State, so a broker company could be an LLC. There is flexibility for broker companies to fit their style for their business.

Chair Frye made a motion: "I move that the committee recommends keeping all license types administered by the Indiana Real Estate Commission."

Col. Wilson seconded the motion.

Chair Frye voted yes.

Mr. Wright voted yes.

Ms. Duncan voted yes.

Ms. Underwood voted yes.

Mr. French voted yes.

Mr. Habig voted yes.

Col. Wilson voted yes.

The motion passed 7-0.

### **M. State Board of Registration for Professional Surveyors**

The preliminary recommendation for the surveyor profession was to keep the professional surveyor license and eliminate the surveyor intern, CE provider, and surveyor firm licenses.

Chair Frye asked if anyone from the public wished to testify on the recommendation.

Jason Coyle, former executive director of the professional surveyors organization and a surveyor, and James Hall, a surveyor, addressed the Committee.

Mr. Coyle asked to speak on each item separately to make the discussion easier.

He began with the surveyor intern license. The certificate is not unique to Indiana, as all 50 states recognize the license. The intern license is designed for recent graduates of a surveying program (though not necessarily a surveying program). The intern, similar to the plumber's apprentice, gets experience needed to be able to move out into the workforce. Eliminating the license could be a barrier to individuals trying to enter the profession and would make Indiana out of step. He said they would recommend that the intern certificate not be eliminated.

Col. Wilson said the individuals were working under the direct supervision of a licensed surveyor, not on their own, making the professional responsible for the trainee's actions. Aside from the paper shuffle, why would there be a barrier to entry?

Mr. Coyle said people would look to other states to get their surveyor intern license and to stay on track. When a surveyor intern gets the certificate, they get a bump in pay. People can work with a surveyor without being an intern, and some people work in the field without intending to get licensed. They are under direct supervision while collecting data for the surveyor process.

Col. Wilson asked whether they were under direct supervision all the time, and whether interns were.

Mr. Hall answered that their work is reviewed.

Mr. Coyle said they are working toward licensure so they get more and more responsibility.

Chair Frye asked whether the intern needed the surveyor intern permit to take the exam.

Mr. Coyle said the test can be taken at any point in the process. Right out of high school, even. But to get the surveyor intern permit, they have to apply and have some minimum education requirements.

Mr. Habig asked whether someone would have to have the surveyor intern permit to become a surveyor.

Mr. Coyle said it could be done all at once.

Mr. Habig asked if that meant work experience could be skipped.

Mr. Coyle said not as much experience is required with education, but it is still required. He had more than six years of experience, which was why he could do all the steps at once, but he was unconventional. Generally there are two tests, one to get the surveyor intern license and one to get the professional surveyor license.

Col. Wilson asked what the value was of the surveyor intern license.

Mr. Coyle answered that it compares to the plumber apprenticeship. It is the distinction a person has after their name for four years, and the person is able to earn more money.

Mr. Hall added that for the individual employee it is an incentive to get to the end. He went to Kentucky to get his surveyor intern license and then came to Indiana for testing. Having the surveyor intern license is required to move forward with testing. Getting rid of it could cause a problem with reciprocity.

Chair Frye made a motion: "I move that the committee recommends keeping all license types currently administered by the State Board of Registration for Professional Surveyors, reversing the preliminary recommendation made by the committee.

Ms. Underwood seconded the motion.

Chair Frye voted yes.

Mr. Wright voted yes.

Ms. Underwood voted yes.

Ms. Duncan voted yes.

Mr. French voted yes.

Mr. Habig voted yes.

Col. Wilson voted yes.

The motion passed 7-0.

Mr. Coyle addressed the professional corporation next, saying he did not believe it had real value, but a certificate might add more value. In Kentucky there is a COA (certificate of authority).

For the continuing education provider, Mr. Coyle said that there are certain requirements that the board will have for education. There was a course in Kentucky that allowed people to search the PDF of the test for answers and get eight hours of CE in twenty minutes. There is some value to the board reviewing courses and providers.

Col. Wilson said the board could look at the courses and certify that they meet the minimum requirements.

Mr. Coyle said he could take a course that is not on the approved list and through an audit it could be approved, or not. It just gives the surveyors a good feeling to have the already approved course list so they know they will meet the audit requirements. He would hope that the surveyors would be professional enough to recognize when there is a substandard provider and make the board aware of that.

Col. Wilson said part of being a professional was being a professional and having a vested interest in the industry and having the trust and confidence of the industry.

Mr. Habig said there was an association of professional land surveyors and asked if they weighed in on continuing education. He thought it sounded like something industry associations could provide the most valuable input on.

Mr. Coyle explained that it could be a conflict of interest, since the association was a CE provider.

Col. Wilson said he thought the responsibility should stay with the board.

Chair Frye moved that the Committee recommend keeping the CE provider registration, reversing the preliminary recommendation.

Mr. Habig seconded the motion.

Chair Frye voted yes.

Mr. Wright voted no.

Ms. Underwood voted no.

Ms. Duncan voted yes.

Mr. French voted yes.

Mr. Habig voted yes.

Col Wilson voted no.

The motion passed 4-3.

Mr. Coyle then discussed land surveyor firm registrations. He said the registration does not restrict anyone's ability to get a job or work. It is a tool that helps the public and the surveyor determine who performed the survey. By law, when surveyors prepare a boundary survey and set corners, they have to put their name and license number on the cap. This is so the surveyor can be found later. Since surveyors can work for multiple companies over the course of their career, it could get confusing to find out which company holds the records. This allows going back to the company that prepared the survey to get a copy of the survey and the field notes, etc. He noted that if the Committee decided to recommend eliminating the license/registration, he had talked with the Indiana Society of Professional Land Surveyors, and they would be more than happy to administer and maintain the records as long as there were no restrictions on them doing that. He would also add that it takes PLA about ten hours per year to administer the registration.

Col. Wilson asked if that could be done and whether it would take an administrative change.

Mr. Wright asked about the linkage between the survey and the firm and what the requirement was for them to be licensed. He did not see the connection between the identification and the records.

Brian Catlin, president-elect of the Indiana Society of Professional Land Surveyors, said that this way the surveyor only needs one cap instead of seven or eight at a time.

Ms. Underwood said she had purchased some property in Muncie and got a state survey of the property. They could not find one corner so they contacted the realtor, but he had died. The surveyor had retired and could not be found. But the company was still responsible and had the records, so they came out and put in the lost stake. Without them she would have had nowhere to go.

Mr. Habig said he was still missing the link too about why the license was required.

Mr. Coyle explained that it is really just a list of firms with associated numbers. There is no license, just a firm number.

Mr. Habig asked if it was just a state database.

Chair Frye said it was a designation.

Mr. Habig asked how the records were transferred if the firm went out of business.

Mr. Coyle answered that the code says the surveyor should try to give the records to another surveyor in the area.

Chair Frye moved that the Committee recommend keeping the surveyor firm designation, reversing the preliminary recommendation.

Ms. Underwood seconded the motion.

Mr. Wright voted yes.

Ms. Underwood voted yes.

Chair Frye voted yes.

Ms. Duncan voted yes.

Mr. French voted yes.

Mr. Habig voted yes.

Col. Wilson voted no, saying he liked the idea of the profession keeping track of the records themselves.

The motion passed 6-1.

Chair Frye said the Committee appreciated the surveyor representatives waiting patiently to give their testimony. She noted that the next scheduled meetings for the JCC would be August 18<sup>th</sup>, September 15<sup>th</sup>, and October 20<sup>th</sup>.

Seeing no further business, the Jobs Creation Committee adjourned at 4:41 p.m.